

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RAYMOND A. CARRUTHERS,

Plaintiff,

v.

**6:20-CV-399
(FJS/TWD)**

KIMBERLY COLTON, individually,

Defendant.

APPEARANCES

OF COUNSEL

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**OFFICE OF THE NEW YORK
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The Capitol
Albany, New York 12224
Attorneys for Defendant

**JONATHAN REINER, AAG
DAVID C. WHITE, AAG**

SCULLIN, Senior Judge

ORDER

On November 29, 2021, the Court granted Defendants' motion to dismiss Plaintiff's complaint in its entirety. *See* Dkt. No. 20. The Court dismissed Plaintiff's causes of action

against Defendants Charles Humphreyville and Kristen Weston, and Plaintiff's first and second causes of action against Defendant Kimberly Colton, *with* prejudice, and Plaintiff's third cause of action against Defendant Colton *without* prejudice. *See id.* at 12. The Court afforded Plaintiff twenty days to move for leave to file an amended complaint containing only his third cause of action against Defendant Colton, which Plaintiff filed on December 19, 2021. *See id.* at 20; *see also* Dkt. No. 21.

Magistrate Judge Dancks denied Plaintiff's motion for leave to amend the complaint on September 7, 2022, and ordered that Plaintiff may move a second time for leave to file an amended complaint within twenty days of that date. *See* Dkt. No. 26. Plaintiff failed to move for leave to amend his complaint a second time, and Defendant filed a letter motion with the Court indicating as such and requesting that the Court dismiss Plaintiff's complaint in its entirety and with prejudice as expeditiously as possible. *See* Dkt. No. 27. Magistrate Judge Dancks then issued a Report-Recommendation on November 15, 2022, in which she recommended that the Court grant Defendant's letter motion and dismiss Plaintiff's complaint in its entirety with prejudice. *See* Dkt. No. 28. In response, Plaintiff filed a status report in which he admitted that he did not move for leave to file a further amended complaint "because in good faith Plaintiff did not have any more facts to plead." *See* Dkt. No. 29. Plaintiff does not challenge Magistrate Judge Dancks's reasoning in the Report-Recommendation, although he informed the Court that he may appeal the Court's November 29, 2021 and September 7, 2022 Orders. *See id.*

Since Plaintiff has admitted that he did not file a second motion for leave to amend his complaint within the time allotted following the Court's September 7, 2022, Order denying his initial motion for leave to file an amended complaint, the Court *adopts* Magistrate Judge

Dancks's Report-Recommendation and dismisses Plaintiff's complaint in its entirety *with* prejudice.

Accordingly, the Court hereby

ORDERS that Magistrate Judge Dancks's November 15, 2022 Report-Recommendation, *see* Dkt. No. 28, is **ADOPTED** in its entirety; and the Court further

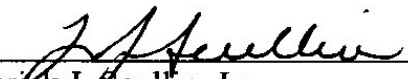
ORDERS that Defendant Colton's letter motion, *see* Dkt. No. 27, is **GRANTED**; and the Court further

ORDERS that Plaintiff's complaint is dismissed in its entirety with prejudice; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in Defendants' favor and close this case.

IT IS SO ORDERED.

Dated: November 29, 2022
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge